

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**October 6, 2003**

- C040857      THE PEOPLE v. HUNSAKER      (Not for Publication)**  
The judgment is affirmed.  
SIMS, J.  
We concur: Scotland, P.J.  
Nicholson, J.
- C042176      THE PEOPLE v. STEWART      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Scotland, P.J.  
Robie, J.
- C043141      In re ANDREW Y. et al.; SISKIYOU COUNTY DEPARTMENT OF HUMAN  
SERVICES v. ROBERT Y. et al.**  
The orders terminating parental rights are affirmed.  
HULL, J.  
We concur: Nicholson, Acting P.J.  
Raye, J.

**October 7, 2003**

- C040962      THE PEOPLE v. CALDWELL      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Morrison, J.
- C041245      THE PEOPLE v. SHAW, SR.      (Not for Publication)**  
The judgment is modified by striking the verdicts under section 667.61 for forcible rape during the commission of a kidnapping. We remand the case for resentencing.  
ROBIE, J.  
We concur: Nicholson, Acting P.J.  
Kolkey, J.

**COURT OF APPEAL  
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**The Minutes**

**October 7, 2003, continued**

- C041809      THE PEOPLE v. TYRANOWSKI      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification, to delete the order for AIDS testing, and to state that the enhancement in connection with count 6 was imposed pursuant to section 12022, subdivision (b). The court is further directed to forward a certified copy of the amended abstract to the Department of Corrections.  
SCOTLAND, P.J.  
We concur: Raye, J.  
Morrison, J.
- C042147      THE PEOPLE v. PRATHER, JR.      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is ordered to send a certified copy of the amended abstract of judgment reflecting the modifications of judgment to the Department of Corrections.  
HULL, J.  
We concur: Davis, Acting P.J.  
Robie, J.
- C042508      THE PEOPLE v. MCCHRISTIAN      (Not for Publication)**  
**(Refiled)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: Davis, J.  
Nicholson, J.
- C042852      THE PEOPLE v. KAMPHOUSE      (Not for Publication)**  
The judgment is modified... The court is further directed to forward a certified copy of the amended abstract to the Department of Corrections.  
SCOTLAND, P.J.  
We concur: Hull, J.  
Robie, J.
- C042013      RICKABAUGH v. ENOCHS      (Not for Publication)**  
The postjudgment orders are reversed. This matter is remanded for further proceedings consistent with this opinion. Plaintiff is awarded his costs on appeal. (Cal. Rules of Court, rule 27(a).)  
KOLKEY, J.  
We concur: Nicholson, Acting P.J.  
Robie, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**The Minutes**

**October 7, 2003, continued**

- C042014      DE ASIS v. DEPARTMENT OF MOTOR VEHICLES et al.**  
**(Certified for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: Raye, J.  
Robie, J.
- C042201      KANG v. STATE OF CALIFORNIA LAHONTAN REGIONAL WATER QUALITY  
CONTROL BOARD      (Not for Publication)**  
and  
**AMIRI et al. v. STATE OF CALIFORNIA LAHONTAN REGIONAL WATER  
QUALITY CONTROL BOARD      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: Sims, J.  
Nicholson, J.
- C042242      In re LAWRENCE F.; THE PEOPLE v. LAWRENCE F.**  
**(Not for Publication)**  
The jurisdictional order is modified... The order is otherwise affirmed. The  
dispositional order is vacated, and the matter is remanded to the juvenile court  
for a new dispositional hearing.  
HULL, J.  
We concur: Nicholson, Acting P.J.  
Raye, J.
- C042813      In re ENRICO F.; THE PEOPLE v. ENRICO F.**  
**(Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.
- C044268      In re ANGEL A.; GLENN COUNTY HUMAN RESOURCE AGENCY v.  
PALEMON S.      (Not for Publication)**  
The orders of the juvenile court are affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**The Minutes**

**October 8, 2003**

**C038542 THE PEOPLE v. SLAFFEY et al.**

**C038666 THE PEOPLE v. RAMOS (Not for Publication)**

The judgment in C038542 is reversed and the matter remanded for retrial.  
The judgment in C038666 is reversed with directions to dismiss the case.

DAVIS, J.

I concur: Blease, Acting P.J.

I concur in parts II and III of the Discussion, but I disagree with the majority's conclusion in part I, *ante*, that the evidence was insufficient to support the retrial of defendant Ramos on the murder charge....

In this case, a reasonable jury could conclude that Ramos was not an innocent bystander, but a participant in the crime. Innocent bystanders rarely happen to be with the criminal principals *both* as they intrude upon a rival's territory and later, when the victim is confronted and killed. Innocent bystanders do not speed away (with their headlights off) within seconds of the crime and with at least one of the confederates. And innocent bystanders do not lie about their whereabouts and the getaway car. Some may call all of this a mere coincidence, but a jury could call it murder.

KOLKEY, J.

**C041256 THE PEOPLE v. THOMPSON (Not for Publication)**

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Raye, J.

Morrison, J.

**C043112 THE PEOPLE v. BUCHANAN (Not for Publication)**

The judgment is reversed and the cause remanded to the trial court.

Upon motion by defendant within 30 days of the date the remittitur is filed in the superior court, the court shall vacate defendant's guilty plea. The court is then directed to suppress the evidence uncovered as a result of the police action discussed above.

RAYE, Acting P.J.

We concur: Morrison, J.

Hull, J.

**C037893 CASSIDY et al. v. CASSIDY (Not for Publication)**

The judgment is reversed. The matter is remanded to the trial court with directions to vacate its orders granting James's petition for injunction prohibiting harassment. Patrick shall recover costs on appeal.

RAYE, J.

We concur: Sims, Acting P.J.

Kolkey, J.

**COURT OF APPEAL  
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**The Minutes**

**October 8, 2003, continued**

**C043357      In re ANTOINE A.; THE PEOPLE v. ANTOINE A.      (Not for Publication)**

The judgment (order committing the minor to CYA) is affirmed.

RAYE, J.

We concur:    Nicholson, Acting P.J.

Hull, J.

**October 9, 2003**

**C039718      THE PEOPLE v. GUTIERREZ      (Not for Publication)**

The judgment is reversed. The enhancement under section 667(a) is stricken and the case is remanded to the trial court for resentencing.

MORRISON, J.

We concur:    Nicholson, Acting P.J.

Raye, J.

**C041602      THE PEOPLE v. DAVIS      (Not for Publication)**

The judgment is affirmed.

NICHOLSON, Acting P.J.

I concur:      Hull, J.

I concur in affirming the conviction, but I write separately because I would analyze the evidentiary issue differently...

Accordingly, I concur in the judgment.

Morrison, J.

**C043434      THE PEOPLE v. POPEJOY      (Not for Publication)**

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the imposition of the penalty assessments and to forward a certified copy of the amended abstract to the Department of Corrections.

RAYE, J.

We concur:    Sims, Acting P.J.

Davis, J.

**C039132      SHEYKO et al. v. SAENZ, as Director, etc. et al.      (Certified for Publication)**

The judgment is reversed with directions to enter judgment for the Department. Each party shall bear its own costs on appeal. (Cal. Rules of Court, rule 27(a).)

MORRISON, J.

We concur:    Scotland, P.J.

Kolkey, J.

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Kolkey, J.

**COURT OF APPEAL  
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**The Minutes**

**October 10, 2003, continued**

**C043217      In re T.R. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. PATRICK R.                      (Not for Publication)**

The orders of the juvenile court denying the petitions for modification are reversed, and the matter is remanded to the juvenile court with directions to order DHHS to provide each of the three Cherokee tribes and all Sioux tribes with proper notice of the proceedings under the Act. If, after receiving notice under the Act, no tribe indicates the minor is an Indian child within the meaning of the Act, then the juvenile court shall reinstate the orders denying the petitions for modification. If, on the other hand, a tribe responds affirmatively, then the court must consider the issue pursuant to the procedural and evidentiary requirements of the Act.

RAYE, J.

We concur:     Scotland, P.J.

Morrison, J.